

46 Am. Jur. 2d Judges § 63

American Jurisprudence, Second Edition | February 2022 Update

Judges

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VIII. Liabilities

A. Civil Liability

1. In General

§ 63. Persons protected by rule of absolute judicial immunity

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  35, 36

Judicial immunity from civil liability extends to all classes of courts,¹ from the highest judge of the nation to the lowest officer who sits as a court and tries petty cases.² Judges of courts of limited jurisdiction are exempt from liability to the same extent as judges of courts of general jurisdiction,³ and immunity extends both to judges pro tempore who exercise all the authority and jurisdiction of the regular judges they replace⁴ and to Indian tribal judges.⁵ The general rule protecting judges from civil liability for judicial acts performed with full jurisdiction over the subject matter and the person also extends to justices of the peace.⁶

The privilege of judicial immunity applies not only to judges but also to court-appointed referees performing subordinate judicial duties.⁷ The doctrine of judicial immunity extends to other officials who are delegated judicial or quasi-judicial functions, including court-appointed receivers, who act as an arm of the court.⁸ Certain judicial actors, such as judges and receivers, are entitled to absolute immunity from civil liability for acts committed within their judicial capacity if the particular act at issue is a judicial act.⁹ When public officers are invested with discretion and are empowered to exercise their judgment in matters brought before them, they are sometimes called quasi-judicial officers, and enjoy immunity similar to that enjoyed by judges when exercising a judicial function within the scope of their general authority.¹¹ Quasi-judicial officers enjoying absolute judicial immunity include members of a state civil rights commission¹² and court clerks.¹³ Judges, prosecutors, and officials who fill quasi-judicial and quasi-prosecutorial roles are entitled to absolute immunity from damages stemming from many of their official acts, no matter how erroneous or harmful.¹⁴

Observation:

The judicial function test is used to determine quasi-judicial immunity from liability.¹⁵ Judicial officers are entitled to quasi-judicial immunity in one of two ways: first, immunity might apply when they are sued for engaging in quasi-judicial functions, that is, functions that are similar to those a judge performs, and the touchstone of this analysis is whether the officer is engaged in discretionary functions, such as resolving disputes between parties, or authoritatively adjudicating private rights, and the second way of obtaining quasi-judicial immunity is engaging in a nondiscretionary or administrative function, but at the explicit direction of a judicial officer.¹⁶ When the judicial function test is utilized to determine whether an administrative proceeding is quasi-judicial, the due process protections afforded during a proceeding do not, alone, determine whether it is quasi-judicial; instead, whether procedural protections are afforded during the proceeding goes to the ability of the hearing entity to hear witnesses and make a decision affecting property rights and is but one consideration in determining whether the hearing entity is performing a judicial function.¹⁷

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Footnotes

- 1 Myers Through Myers v. Price, 463 N.W.2d 773 (Minn. Ct. App. 1990).
- 2 As to absolute judicial immunity, generally, see § 61.
- 3 Bunn v. Orem, 878 F. Supp. 59 (N.D. W. Va. 1995).
- 4 Rumfola v. Murovich, 812 F. Supp. 569 (W.D. Pa. 1992).
- 5 Hupp v. Hill, 576 N.E.2d 1320 (Ind. Ct. App. 1991).
- 6 As to pro tem judges, generally, see §§ 232 to 252.
- 7 Sandman v. Dakota, 816 F. Supp. 448 (W.D. Mich. 1992), order aff'd, 7 F.3d 234 (6th Cir. 1993).
- 8 Am. Jur. 2d, Justices of the Peace §§ 66 to 72.
- 9 Regan v. Price, 131 Cal. App. 4th 1491, 33 Cal. Rptr. 3d 130 (3d Dist. 2005).
- 10 Ram v. Lal, 906 F. Supp. 2d 59, 84 Fed. R. Serv. 3d 187 (E.D. N.Y. 2012).
- 11 District of Columbia v. Pizzulli, 917 A.2d 620 (D.C. 2007).
- 12 Am. Jur. 2d, Public Officers and Employees § 318.
- 13 Crenshaw v. Baynerd, 180 F.3d 866 (7th Cir. 1999).
- 14 Harris v. Suter, 3 Fed. Appx. 365 (6th Cir. 2001).
- 15 Doermer v. Callen, 847 F.3d 522 (7th Cir. 2017).
- 16 State, ex rel. Bd. of Parole Com'rs v. Morrow, 127 Nev. 265, 255 P.3d 224, 127 Nev. Adv. Op. No. 21 (2011).
- 17 Zoretic v. Darge, 832 F.3d 639 (7th Cir. 2016).
- 18 State, ex rel. Bd. of Parole Com'rs v. Morrow, 127 Nev. 265, 255 P.3d 224, 127 Nev. Adv. Op. No. 21 (2011).

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